

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matters of )  
)  
Implementation of the Local Competition ) CC Docket No. 96-98  
Provisions in the Telecommunications Act )  
Of 1996 )  
)  
Inter-Carrier Compensation for )  
ISP-Bound Traffic ) CC Docket No. 99-68  
)

To: The Commission

**JOINT COMMENTS OF  
ADVANCED TELCOM GROUP, INC.;  
E.SPIRE COMMUNICATIONS, INC.;  
INTERMEDIA COMMUNICATIONS INC.;  
KMC TELECOM, INC.;  
NEXTLINK COMMUNICATIONS, INC.; AND  
THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION**

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July 21, 2000

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Advanced Telecom Group, Inc.; e.spire Communications, Inc.; Intermedia Communications Inc.; KMC Telecom, Inc.; NEXTLINK Communications, Inc.; and the Competitive Telecommunications Association<sup>1</sup> (collectively, the "CLEC Coalition") hereby submit these joint comments in response to the Public Notice issued by the Federal Communications Commission ("FCC" or "Commission") on June 23, 2000<sup>2</sup> requesting comments on issues raised by the remand of the Commission's *Reciprocal*

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<sup>1</sup> The Competitive Telecommunications Association ("CompTel") is a leading industry association representing competitive telecommunications carriers and their suppliers. CompTel's diverse membership includes integrated communications providers, competitive local exchange carriers ("CLECs"), data CLECs and Internet service providers ("ISPs").

<sup>2</sup> *In the Matters of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-Carrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98 and 99-68, Public Notice, FCC 00-227 (rel. June 23, 2000) ("*Public Notice*").

*Compensation Ruling*<sup>3</sup> by the U.S. Court of Appeals for the D.C. Circuit (“D.C. Circuit” or the “Court”).<sup>4</sup> The members of the CLEC Coalition include facilities-based CLECs and CompTel, a leading competitive carrier industry association, that have joined together in these comments to emphasize that, on remand from the Court, the Commission must find that dial-up traffic delivered to ISPs (“ISP-bound traffic”) is telecommunications traffic that qualifies for reciprocal compensation under Section 251(b)(5) of the Communications Act of 1934, as amended (“Act”).

### **Introduction and Summary**

Too many resources have been consumed in this battle. Thus, the members of the CLEC Coalition herein present a unified front in support of an expeditious, practical and fair resolution of the core issue regarding the applicability of Section 251(b)(5) to ISP-bound traffic.

The focus herein is on the statutory right and fair expectation that CLECs will receive reciprocal compensation for the transport and termination of all telecommunications traffic – including ISP-bound traffic – that is not encompassed by the Commission’s access charge regime. These comments do not address the *jurisdictional nature* of dial-up calls to the Internet. The D.C. Circuit did not see, and indeed dismissed, the relevance of the Commission’s jurisdictional analysis to the resolution of whether dial-up calls to ISPs are subject to reciprocal compensation under Section

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<sup>3</sup> *In the Matters of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-Carrier Compensation for ISP-Bound Traffic*, Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68, 14 FCC Rcd 3689 (1999) (“*Reciprocal Compensation Ruling*”).

<sup>4</sup> *See Bell Atl. Tel. Companies v. F.C.C.*, 206 F.3d 1 (D.C. Cir. 2000) (“*Bell Atlantic*”).

251(b)(5).<sup>5</sup> Based on the Court's compelling analysis, the CLEC Coalition members submit that the dispute over whether ISP-bound traffic is subject to reciprocal compensation under Section 251(b)(5) can be resolved without reference to the jurisdictional nature of such traffic.<sup>6</sup> In the interest of reaching final resolution of the compensation issue more quickly and simply, the CLEC Coalition respectfully submits that the FCC should address jurisdictional issues and compensation issues separately in its order on remand from the D.C. Circuit.

For the purpose of determining the applicability of reciprocal compensation under Section 251(b)(5), and consistent with the guidance provided by the D.C. Circuit and the Commission's own definitions established for the purpose of implementing that section of the Act, the CLEC Coalition respectfully submits that (1) "termination" occurs – and a call "terminates" for purposes of reciprocal compensation – when ISP-bound traffic is switched and delivered to an ISP, and (2) ISP-bound traffic is "local", as opposed to "toll", traffic and is thus subject to reciprocal compensation under that section of the Act.<sup>7</sup> Consistent with this view, and, once again, with the analysis supplied by the Court, the CLEC Coalition also submits that ISP-bound calls fit within the definition of "telephone exchange service", as opposed to "exchange access service". In short, and as more fully set forth below, there are no compelling reasons why the subset of telecommunications traffic now known as "ISP-bound traffic" is not encompassed by the

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<sup>5</sup> *Id.*, at 2, 3-5.

<sup>6</sup> The Commission has authority to implement the reciprocal compensation provisions of Section 251, regardless of whether ISP-bound traffic is jurisdictionally intrastate or interstate. *Id.*, at 6 ("under the 1996 Act the Commission has the jurisdiction to implement such provisions as § 251, even if they are in the traditional domain of the states") (citing *AT&T Corp. v. Iowa Utils. Bd.*, 119 S.Ct. 721, 730).

<sup>7</sup> The CLEC Coalition agrees with the Court that the correct comparison to make is between local and toll traffic, as opposed to one between intrastate and interstate traffic. *E.g., id.*, at 5 ("The issue at the heart of this case is whether a call to an ISP is local or long distance.").

Section 251(b)(5) requirement that *all* telecommunications traffic is subject to reciprocal compensation.

Finally, the CLEC Coalition submits that, in its order on remand, the Commission can and should act proactively to eliminate future disputes between carriers by affirming that (1) bill and keep cannot be mandated when traffic exchanged is not roughly in balance, and (2) reciprocal compensation mechanisms cannot be used as a means of indirectly discriminating against ISPs.

**I. ISP-Bound Traffic Is “Local” Telecommunications Subject to Reciprocal Compensation Under Section 251(b)(5)**

The Court’s decision compels the conclusion that *all* telecommunications traffic exchanged between carriers for transport and termination that is not subject to access charges *is* subject to reciprocal compensation under Section 251(b)(5). As the Court appeared to conclude, ISP-bound traffic fits within the two carrier (LEC to LEC) local calling model, as opposed to the three carrier (LEC to interexchange carrier (“IXC”) to LEC) model of toll calling.<sup>8</sup> Moreover, the Court was correct when it determined that application of the Commission’s definition of “termination” places ISP-bound calls squarely within the Commission’s definition of “local” traffic. For purposes of reciprocal compensation, “termination” is a term of art referring to a functionality or service performed, as opposed to a final physical stopping point. Accordingly, the CLEC Coalition believes that ISP-bound traffic is “local”, and not toll traffic, and submits that

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<sup>8</sup> See, *id.*, at 6 (citing the Commission’s own language stating that “it is not clear that [information service providers] use the public switched network in a manner analogous to IXCs”), 6-7 (“the difference between ISPs and traditional long distance carriers . . . appears relevant for purposes of reciprocal compensation”), 8 (noting that the FCC analogized calls to ISPs as being like a call to a local business in its brief in *Southwestern Bell v. FCC*, 153 F.3d 523 (8<sup>th</sup> Cir. 1998)).

there are no compelling justifications for excluding such traffic from the Act's reciprocal compensation requirement.

**A. All Telecommunications Traffic Not Subject to Access Charges Is Subject to Reciprocal Compensation**

In 1996, the Commission concluded that the statutory reciprocal compensation requirement in Section 251(b)(5) – which on its face applies to *all* telecommunications traffic<sup>9</sup> – reasonably could be limited so that it did not apply to interexchange telecommunications traffic.<sup>10</sup> Toll calls, the Commission determined, would continue to be subject to the access charges regime put in place under Sections 201 and 202 of the Act.<sup>11</sup> The CLEC Coalition does not challenge here that Commission decision. Indeed, the Court itself did not appear to question the Commission's interpretation of Section 251(b)(5).<sup>12</sup> Instead, the Court observed that “[b]y regulation the Commission has *limited the scope* of the reciprocal compensation requirement to “local telecommunications traffic.”<sup>13</sup>

On the basis of that observation, however, the Court did appear to question the Commission's fundamental conclusion in its *Reciprocal Compensation Ruling* that *yet another subset of telecommunications traffic* – ISP-bound traffic – was to be excluded from the Act's reciprocal compensation requirement. Indeed, the Court took notice that Section 251(b)(5) “requires local exchange carriers (“LECs”) to ‘establish reciprocal

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<sup>9</sup> Section 251(b)(5) imposes on all LECs “[t]he duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.” 47 USC § 251(b)(5).

<sup>10</sup> See *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 16013 (¶¶ 1033-34) (1996) (“*Local Competition Order*”).

<sup>11</sup> *Id.*

<sup>12</sup> *Bell Atlantic*, at 4.

<sup>13</sup> *Id.*, at 2, 4.

compensation arrangements for the transport and termination of *telecommunications*’”.<sup>14</sup>

The Court noted that the breadth of this statutory mandate purports to extend to “*all telecommunications*’”.<sup>15</sup>

It is significant that the Court noted – twice – that the FCC, by regulation, *limited* the statutory reciprocal compensation requirement to apply to “local telecommunications traffic between LECs and other telecommunications carriers.”<sup>16</sup> Based on the Court’s foregoing conclusions regarding the breadth of that requirement, it is now clear that, if the Commission determines that ISP-bound traffic is not local, and such traffic is not subject to access charges, the Commission must support such a finding with a compelling explanation as to why ISP-bound traffic constitutes telecommunications traffic that is outside the scope of Section 251(b)(5)’s reciprocal requirement.

Fortunately, no such explanation is needed. With the aid of the Court’s opinion, it is now clearer than ever that ISP-bound traffic falls well within the Commission’s own definitions associated with of the type of traffic – local traffic – that the Commission previously has determined is subject to reciprocal compensation. Moreover, as will be explained further below, dial-up ISP-bound traffic fits squarely within the two carrier, LEC to LEC local calling model that is subject to reciprocal compensation, and not within the three carrier, LEC to IXC to LEC toll calling model of traffic that is subject to access charges and, by regulation, is exempt from the Act’s reciprocal compensation requirement.

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<sup>14</sup> *Id.*, at 2, 4 (emphasis added).

<sup>15</sup> *Id.*, at 4 (emphasis added).

<sup>16</sup> *Id.*, see also *id.*, at 2.



**B. Application of the FCC's Definitions Indicates that ISP-Bound Traffic Is "Local" Traffic**

The Court did not disguise its belief that, based on application of the FCC's definition of "termination" in 47 CFR § 51.701(d), ISP-bound traffic fits within the definition of "local" traffic in 47 CFR § 51.701(b)(1).<sup>17</sup> The CLEC Coalition believes that the Court's analysis is correct. As the Court indicated, the Commission's fundamental error in the *Reciprocal Compensation Ruling* was to bypass its own definition of what it means to "terminate" a call for reciprocal compensation purposes in favor of a jurisdictional analysis based on the physical end-point of a call. Thus, the basic point that the Act provided for compensation to a LEC for performing the "termination" functionality somehow got lost in the effort to determine the jurisdictional nature of ISP-bound traffic. As the Court concluded, the jurisdictional nature of ISP traffic does not appear to have a bearing on whether or not such traffic is telecommunications traffic subject to reciprocal compensation under Section 251(b)(5).<sup>18</sup> Rather, it is the functionality or service provided – for which compensation is due – that is relevant.

Focusing on the definitions adopted by the FCC in 1996 to implement Section 251, the Court observed that "'telecommunications traffic' is local if it 'originates and terminates within the local serving area'".<sup>19</sup> With respect to the application of reciprocal compensation, this definition makes the most sense if the term "terminates" is construed as a functionality or service provided by the LEC serving the called party (an ISP, in this

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<sup>17</sup> See *id.*, at 6.

<sup>18</sup> *Id.*, at 2, 3-5.

<sup>19</sup> *Id.*, at 6 (47 CFR § 701(b)(1)).

case), as opposed to an ultimate end-point of a communication.<sup>20</sup> In its 1996 order implementing this section of the Act, the FCC properly defined “termination” – the term used in Section 251(b)(5) – as a functionality or service performed. As the Court noted, for the purpose of reciprocal compensation, the Commission in 1996 defined “termination” as “the switching of traffic that is subject to Section 251(b)(5) at the terminating carrier’s end office switch (or equivalent facility) and delivery of that traffic from that switch to the called party’s premises.”<sup>21</sup> The CLEC Coalition agrees with the Court that calls to ISPs fit within this definition. As the Court concluded, “the traffic is switched by the LEC whose customer is the ISP and then delivered to the ISP, which is clearly the ‘called party’.”<sup>22</sup>

Notably, the CLEC Coalition also agrees with the Court’s analysis regarding the implications that the distinction between ISPs and IXC’s has on the inquiry. ISPs are end users which provide enhanced services.<sup>23</sup> IXC’s are telecommunications carriers. The Court correctly concluded that this distinction is relevant for reciprocal compensation

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<sup>20</sup> If the Commission continues to believe that the termination point, rather than the termination functionality is relevant for determining the applicability of Section 251(b)(5), the CLEC Coalition respectfully submits that the point at which the CLEC-provided telecommunications component of an Internet communication is terminated is the relevant termination point for determining whether ISP-bound calls are subject to reciprocal compensation. Notably, CLECs do not seek compensation from incumbent local exchange carriers (“ILECs”) for providing the entire Internet communication, but instead seek compensation for the telecommunications service provided (transport and termination) to connect ILEC end users to CLEC end users which, in this case, are ISPs.

<sup>21</sup> *Bell Atlantic*, at 6 (citing *Local Competition Order*, 11 FCC Rcd at 16015 (¶ 1040); 47 CFR § 51.701(d)).

<sup>22</sup> If the Commission concludes that ISP-bound traffic is nevertheless not subject to Section 251(b)(5), it must demonstrate why ISP-bound calls constitute a class of non-toll calls that are not subject to access charges and nevertheless are exempt from the requirement that reciprocal compensation be paid for the transport and termination of *all telecommunications*.

<sup>23</sup> Indeed, the CLEC Coalition agrees that ISPs are, as the Court concluded, “no different from many businesses, such as ‘pizza delivery firms, travel reservation agencies, credit card verification firms, or taxicab companies,’ which use a variety of [tele]communications services to provide goods and services to their customers.” *Bell Atlantic*, at 7.

purposes.<sup>24</sup> As end users, “ISPs use telecommunications to provide information service, they are not themselves telecommunications providers (as are long-distance providers)”.<sup>25</sup> Thus, when ISP-bound calls are placed, two LECs collaborate to deliver a call to an end user in the same manner they do for any other type of local call.

As the Court notes and the Commission apparently acknowledged in its brief to the Court, ISPs may originate (or cause the origination of) additional communications as a result of an end user placing an ISP-bound call.<sup>26</sup> The CLEC Coalition agrees with the Court’s conclusion that the fact that the end user ISP may cause the origination of additional communications that often are interexchange in nature does not imply that the original local telecommunications service (the functionality provided jointly by the two LECs that have collaborated to connect an end user with an ISP end user) did not “terminate”, for reciprocal compensation purposes, at the ISP, before being connected to an additional communications service extending beyond the local calling area.<sup>27</sup> Indeed, the Court expressed skepticism with respect to the propriety of viewing the linked components of a dial-up connection to the Internet as continuous – at least for the purposes of reciprocal compensation.”<sup>28</sup> The CLEC Coalition believes that the Court’s skepticism is well founded as the possible linkage of additional communications to local services jointly provided by two LECs does not alter the fact that, in such instances, one LEC still provides transport and termination functionalities to the other originating LEC. The Act clearly requires payment of reciprocal compensation for those transport and termination functionalities provided.

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<sup>24</sup> *Id.*, at 6-7.

<sup>25</sup> *Id.*, at 7.

<sup>26</sup> *See id.*, at 7.

## II. ISP-Bound Traffic Is Telephone Exchange Service

In its opinion, the Court concluded that there was “an independent ground requiring remand – the fit of the present rule within the governing statute.”<sup>29</sup> Specifically, the Court called on the FCC to clarify whether dial-up calls to ISPs are “telephone exchange service”, as defined in 47 USC § 153(47), or “exchange access”, as defined in 47 USC § 153(16).<sup>30</sup> Significantly, the CLEC Coalition does not believe that resolution of this question is dispositive of the issue of whether ISP-bound traffic is subject to reciprocal compensation under Section 251(b)(5). That section requires reciprocal compensation for *all* telecommunications traffic. To date, the Commission has imposed a regulatory exemption from this requirement for traffic subject to access charges. ISPs are not subject to access charges. Thus, regardless of whether the Commission views such traffic as telephone exchange traffic or exchange access, the Commission, in the absence of a compelling basis for excluding another class of telecommunications traffic from the requirements of Section 251(b)(5), must find that it is traffic subject to reciprocal compensation.

Nevertheless, the CLEC Coalition respectfully submits that the functionality provided by a LEC terminating a dial-up local call to an ISP end user located in the same local calling area does constitute “telephone exchange service” under either part of the statutory definition.<sup>31</sup> The intercommunicating service provided when two LECs

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<sup>27</sup> *See id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*, at 8.

<sup>30</sup> *Id.*

<sup>31</sup> 47 USC § 153(47) provides that:

collaborate to provide connectivity to an ISP is covered in the local exchange service charges imposed on the end user by the originating ILEC, as required in part A of the definition. The telecommunications service provided by two LECs that collaborate to connect an end user to an ISP end user also fits within part B of the definition, as the functionality provided allows an end user to originate and terminate (in the functional sense) a telecommunications service, which in the case of ISP-bound traffic, often will be linked to another communications service used to provide connectivity to various sites on the worldwide web.<sup>32</sup> Moreover, as the Court observed, “ISPs connect to the local network ‘for the purpose of’ providing information services, not originating telephone toll services.”<sup>33</sup> Thus, ISP-bound traffic does not appear to comport with the statutory definition of exchange access.<sup>34</sup>

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The term “telephone exchange service” means (A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

<sup>32</sup> Here, too, the CLEC Coalition submits that the jurisdictional nature of such traffic and the propriety of applying the Commission’s end-to-end analysis to communications to the Internet is irrelevant for purposes of interpreting the statutory terms in dispute.

<sup>33</sup> *Bell Atlantic*, at 9 (citing Petitioner MCI WorldCom’s Reply Br. at 6).

<sup>34</sup> 47 USC § 153(47) provides that:

The term “exchange access” means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

47 USC § 153(48) provides that:

The term “telephone toll service” means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

### **III. The Commission Should Take Action to Eliminate Remaining Areas of Uncertainty and Potential Dispute**

As stated above, the CLEC Coalition firmly believes that ISP-bound traffic is subject to reciprocal compensation under Section 251(b)(5). In addition, the CLEC Coalition strongly supports the adoption of additional reciprocal compensation rules designed to provide business certainty and eliminate many of the potential battles facing LECs in ongoing and upcoming proceedings before the state commissions.<sup>35</sup>

Most importantly, the Commission explicitly should affirm that “bill and keep” may not be mandated as a reciprocal compensation mechanism where traffic is not roughly in balance.<sup>36</sup> As Congress made clear in Section 252(d)(2)(B)(i) of the Act, “bill and keep” may be imposed as an alternative to actual cash-based reciprocal compensation only when mutual cost recovery obligations are roughly offsetting (*i.e.*, amounts due each party result in a “wash”) thereby rendering the process of exchanging bills and payments inefficient. Where traffic imbalances are created as a result of one LEC directing ISP-bound or other predominantly unidirectional traffic to another, the imposition of bill and keep would result in zero compensation for that traffic. Zero compensation proposals ignore the fact that costs are incurred when traffic is transported and terminated on a LEC network. Failure to provide for cost recovery in the cases where traffic imbalances occur will result in uneconomic subsidization of the originating carrier by the terminating

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<sup>35</sup> Even if the Commission finds that ISP-bound traffic is not subject to reciprocal compensation under Section 251(b)(5), the CLEC Coalition supports adoption of an inter-carrier compensation mechanism where compensation for ISP-bound calls is: (1) symmetrical and set at the same cost-based ILEC rates approved by state commissions for the termination of local traffic (unless a CLEC affirmatively chooses to establish a separate rate based on its own cost studies); (2) cash-based and reflects the fact that costs are incurred and compensation is owed (unless the parties mutually agree to use “bill and keep”); and (3) nondiscriminatory and subject to Section 252(i) “pick and choose” rights.

carrier. In addition, the failure to provide for cost recovery is at odds with the Act's presumption that costs imposed as a result of the exchange of traffic between competing LECs shall be recovered. For example, Section 252(d)(2)(A)(i) provides that terms and conditions governing the "charges for the transport and termination of traffic" shall "provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier."

Finally, the CLEC Coalition requests that the Commission make clear that reciprocal compensation mechanisms may not be used as a means of indirectly discriminating against particular types of end users such as ISPs. If state commissions determine that implementation of varying rate structures or rate levels are consistent with the Act, that determination must be made on the basis of the call characteristics of the traffic involved and not on the identity of the end user. Moreover, any presumption made regarding the costs of terminating particular types of calls with like characteristics (*e.g.*, long holding times) must be rebuttable.<sup>37</sup>

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<sup>36</sup> However, the Commission should preserve the ability of carriers to agree voluntarily to bill and keep provisions (or variations thereof) through negotiation.

<sup>37</sup> For example, the New York Commission adopted a rebuttable presumption that costs associated with terminating "convergent" traffic (local traffic characterized by relatively long call holding times) may be lower than that for other local traffic. *Proceeding on Motion of the Commission to Reexamine Reciprocal Compensation*, (Opinion No. 99-10), Case No. 99-C-0529, Opinion and Order Concerning Reciprocal Compensation, at 59-62 (NY PSC Aug. 26, 1999). Although the CLEC Coalition does not support the New York Commission's underlying conclusion regarding the costs of terminating convergent traffic, it does support the New York Commission's decisions (1) not to single-out traffic to ISPs in a discriminatory manner, and (2) to give CLECs the opportunity to rebut the presumption of lower costs based on a CLEC's voluntary decision to conduct its own traffic termination cost study. See *In the Matter of Rebuttal Presentation for Time Warner Telecom, Inc., Proceeding on Motion of the Commission to Reexamine Reciprocal Compensation*, Cases 00-C-0147 and 99-C-0529, Order Directing Reciprocal Compensation Rate, (NY PSC July 5, 2000) (finding that Time Warner had rebutted the presumption established in Opinion 99-10 and directing Bell Atlantic to compensate Time Warner for the termination of traffic at the tandem rate).

### **Conclusion**

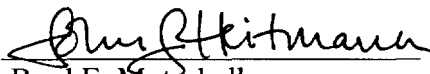
For all of the foregoing reasons, the members of the CLEC Coalition respectfully submit that, based on guidance supplied by the Court, the Commission must find that ISP-bound traffic is “local” traffic subject to reciprocal compensation under Section 251(b)(5). Application of the Commission’s own functional definition of “termination” can lead to no conclusion other than that the compensable functionality or service is provided and a call “terminates”, for reciprocal compensation purposes, when it is switched and delivered by a LEC to an ISP. Provided that an ISP is located within the local serving area, ISP-bound traffic falls well within the Commission’s definition of “local” traffic. On this basis and in recognition of the fact that ISP-bound traffic is not “toll” traffic subject to access charges, the Commission must find that ISP-bound traffic is subject to the reciprocal compensation under Section 251(b)(5). Based on this finding, the Commission can and should proactively eliminate future disputes between carriers by



affirming that (1) bill and keep cannot be mandated when traffic exchanged is not roughly in balance, and (2) reciprocal compensation mechanisms cannot be used as a means of indirectly discriminating against ISPs.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I, John Heitmann, hereby certify that copies of the foregoing Joint Comments were served on July 21, 2000 by messenger on the following persons.



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